

Applicant: Peter Osypka
Application No.: 10/062,114

REMARKS

Claims 1, 3-7 and 10-12 are currently pending in this application as amended. By this Reply, claims 1, 3-7 and 10-12 have been amended. Claims 8 and 9, which were withdrawn from consideration in response to the prior restriction requirement, have been amended for consistency. Claim 2 has also been canceled. No new matter has been introduced into the application by these amendments.

In the Action, the restriction requirement was made final and claim 8 was noted as being withdrawn from further consideration as drawn to a non-elected species of the invention. Claim 9, which depended from claim 8, was also withdrawn.

The claims were objected to in the Action as including reference numbers. In response, the reference numbers have been canceled from the claims as noted above. Additionally, the claims have been amended to specifically refer to the "openings" on the edges of the longitudinal sides of the continuous break formed in the stent. These have been referred to as recesses, openings, eyelets or punchings in paragraph [0051] of the original Specification and it is believed that "openings" is more indicative of the invention since the openings are not specifically required to be punched. Although paragraph [0042] defines "punchings 6" as including any of these, it is believed that this corresponds more clearly to the regular definition of "openings" as would be understood by one of ordinary skill in the art. Accordingly,

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this amendment is intended to be merely clarifying and does not narrow the scope of the claims. In view of these amendments to the claims, withdrawal of the claim rejections is respectfully requested.

In the Action, claims 1-7 and 10-12 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent 6,042,605 to Martin et al. Applicant respectfully traverses this rejection.

The present invention is directed to an implantable stent which is insertable as a support sleeve in a region of a vascular constriction. The stent is initially expandable by means of a balloon catheter and includes a wall which is radially expandable, for example through the deformation of the bars which form the sieve-like wall, as illustrated in the drawing figures. A continuous break is provided at least one longitudinal side with openings provided on the edges of the break. In a first working position the openings are covered and penetrated by at least one removable holding element so that the break is closed or a specified slot spacing is maintained during the initial expansion upon insertion. The break has at least one of a wave-like, zig-zag or meander-like course and includes tongues along one of the edges that are oriented in a first peripheral direction that engage in between tongues along the other of the edges that are oriented in an opposite peripheral direction. The stent is further radially expandable upon removal or dissolution of the removable holding element. This provides the specific benefit of the present

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invention of allowing a later dilation or expansion of the stent after its initial implantation. This can, for example, be used to avoid the need for further surgery during growth in children due to the ability for further expansion due to the removal or dissolution of the holding element engaged in the openings along the edges of the continuous break. This is explained in detail in paragraphs [0007] - [0009] of the present application.

In contrast to the present invention, Martin et al. discloses an expandable stent which is folded in upon itself as illustrated in Figures 15a-15f prior to insertion into a vascular opening. A holding element such as a thread or wire is used to hold the stent in the folded position and upon deployment of the stent, this holding element is removed allowing the torsion members of the stent to spring open against the walls of the vascular vessel. It is noted that an inflatable balloon catheter of similar means can be used to ensure full opening of the stent in certain circumstances. See column 15, lines 30-37. However, it is clear from Martin et al. and in particular Figures 15a-15f that the stent is unusable in its folded configuration as it would create or enhance further blockage of a vascular vessel, and this folded configuration is merely used during insertion of the stent into the vascular vessel. In contrast, the present invention is initially expandable via a balloon catheter and is fully usable in this initially expandable position. Further radial expansion can then take place upon removal or dissolution of the removable

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holding element at a later point in time to allow further expansion, for example, based on a greater size required due to growth of a patient. This is not contemplated by Martin et al. and clearly nothing in Martin et al. suggests this issue or the solution provided by the present invention. Accordingly, withdrawal of the Section 102 rejection of claim 1 is respectfully requested.

Claims 3-7 and 10-12 depend from claim 1 and should be allowable for the reasons noted above in connection with claim 1.

To the extent that claim 1 is generic to the species of the invention originally subject to the restriction requirement in this case, it is respectfully requested that withdrawn claims 8 and 9 now be considered and allowed based upon their dependence on claim 1.

If the examiner believes that any additional minor formal matters need to be addressed in order to place the present application in condition for allowance, it is respectfully requested that the examiner contact the undersigned by telephone at the examiner's convenience so that these matters can be addressed.

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In view of the foregoing Amendment and Remarks, applicant respectfully submits that the present application, including claims 1 and 3-12, is in condition for allowance, and a notice to that effect is respectfully requested.

Respectfully submitted,

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